

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
-vs-)	No. CR-22-218-PRW
)	
STOLYNN SHANE STAMBAUGH,)	
)	
Defendant.)	

**UNITED STATES’ UNOPPOSED MOTION TO VACATE THE ORDER OF
DISMISSAL AS TO COUNT 3 (DOC. 58) AND ORDER DENYING THE UNITED
STATES’ MOTION TO RECONSIDER (DOC. 88)**

The United States respectfully requests that the Court vacate its order (Doc. 58) granting Defendant Stolyinn Stambaugh’s Motion to Dismiss Count 3 of the Indictment as Unconstitutional (Doc. 31) and vacate its order (Doc. 88) denying the United States’ Motion to Reconsider (Doc. 67)¹. The parties have reached a plea agreement that will settle this matter without expending any additional judicial resources. Part of that agreement involves this motion, which the Defendant does not oppose.

The plea agreement provides that the United States will give up its right to appeal the aforementioned decisions of the Court. Vacatur will accordingly allow the United States to fulfill its duty to defend Acts of Congress while preventing unnecessary litigation.

¹ The Tenth Circuit has recognized that a district court has the power to reconsider, review and revise its interlocutory rulings before final judgment in a case. *Rimbert v. Eli Lilly & Co.*, 647 F.3d 1247, 1251 (10th Cir. 2022). See also, *Fye v. Okla. Corp. Comm’n*, 516 F.3d 1217, 1223-24 n.2 (10th Cir. 2008); *United States v. Yazzie*, 998 F.Supp.2d 1044, 1091 (D.N.M. 2014).

In return, the plea agreement provides that the United States will dismiss the count at issue (Count 3 in the Indictment and Superseding Indictment) providing the Defendant the same benefit as he received by the Court's decisions.

Respectfully submitted,

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s/ Stephanie Powers
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CERTIFICATE OF SERVICE

This is to certify that on January 31, 2023, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Docket Activity to the following ECF registrants:

Alyssa Farrell, Counsel for Stolynn Stambaugh.

s/ Stephanie Powers
Special Assistant United States Attorney